IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7825 OF 2005

Rahul Baburao Jadhav & Ors. ..Petitioners.
Vs.
Bassein Catholic Co-op. Bank Ltd. & Ors. .. Respondents.

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Mr. S.D. Rupawate for the Petitioners.
Mr. A.V. Bukhari for Respondent Nos.1 to 3.
Mrs. M.P. Thakur, Assistant Government Pleader for Respondent Nos.4 to 6.

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CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

21st March, 2006.

P.C. (**Per DR. D.Y. CHANDRACHUD, J.**):

1. The Petitioners are in the employment of the First Respondent which is a scheduled co-operative bank and have been engaged on the date of the institution of the petition as senior clerks. The First and Second Petitioners belong to the Scheduled Castes, the Third Petitioner belongs to the OBC category and the Fourth Petitioner belongs to a Nomadic Tribe. By these proceedings, the Petitioners seek a direction to the First Respondent to operate the roster of reservations, clear the backlog as of today of reserved category candidates and to stringently

follow the policy of reservation. A direction has been sought to Respondents 4 to 7 who are respectively the Divisional Commissioner, Konkan Division, the Commissioner of Co-operation, the State of Maharashtra and the Reserve Bank of India to monitor the observance of the policy of reservation by the First Respondent. The First Respondent is sought to be restrained from recruiting or promoting employees from the open category as officers and relief has been sought in regard to the personal claim of the First and Second Petitioners for promotion as officers with effect from April 2001. According to the Petitioners though the State Government has issued a circular on 8th August, 1999 calling upon co-operative societies including co-operative banks to clear the backlog of reservation and to scrupulously adhere to the policy of reservation, the First Respondent has not done so and the process of recruitment of probationary officers does not take into account the policy of reservations.

2. An affidavit in reply has been filed by the First Respondent in which the contention of the Petitioners of there being a breach of the policy of reservation has been denied. It has been stated that the bank is following the policy of reservation in accordance with

the norms and guidelines stipulated by the State Government. In the affidavit it has inter alia been stated that though on 3rd June, 2005 a circular was issued for filling up 20 posts of officers by way of promotion from amongst senior clerks of which six were reserved, the Petitioners did not apply for the post. In paragraph 4 (c) of the affidavit in reply it has been averred thus :

> "(c) I say that prior to 1995 no reserved category employees working in the post of Senior Clerks were eligible to be promoted to the Post of Officer, since the Recruitment in the Reserved category in Junior Clerk category started in January 1990 and from the Junior Clerk promotion to the Post of Senior Clerks were effected in 1995 on completion of 5 years of continuous service as per the prevailing practice. In the year 1995, 8 Posts of Officers were reserved for the Backward class candidates comprising of 4 SC, 2 ST, 1 NT and 1 OBC to be filled in by promotion. Pursuant to the Circular issued by the Bank to the employees, the employees belonging to Reserved Category working as Sr. Clerks (9 from SC, 2 from ST, 1 from NT and 6 from OBC) applied for the said 8 posts reserved for reserved candidates. Out of the said 18, 4 were selected and promoted (2 SC, 1 NT and 1 OBC) and remaining 14 did not secure the requisite marks in the Written Test and therefore, they could not be considered for promotion. In the year 2001 one or more post of Officer was filled in from OBC. Over and above this, 3 posts from the ST category was filled in by way of direct Recruitment in the year 1989. Thus, as on today, there are 8 employees from the Reserved category working in Officers category."

3. It has also been stated that the Staff Committee of the bank by a resolution dated 24th August, 2005 resolved to create a post of

probationary officer (Junior Officer) with a view to create more avenues of promotion to senior clerks which came to be approved by the Board of Directors on 27th August, 2005. It has also been stated that on 26th November, 2005 it has been resolved to fill in 30 posts of junior officers by way of promotion of senior clerks of which 10 have been reserved for reserved candidates, 5 for the Scheduled castes, 4 for the Scheduled Tribes and one for the Nomadic Tribes.

4. An affidavit in reply has been filed in these proceedings by the Assistant Commissioner (BC Cell) in the office of the Divisional Commissioner, Konkan Division, Navi Mumbai. Therein, it has been stated that the deponent along with the Divisional Commissioner, Konkan Division visited the First Respondent for inspection of the roster register maintained by the bank. The affidavit records that the bank had not updated the roster register in accordance with the instructions contained in a Government Resolution dated 18th October, 1997 of the General Administration Department. Since the roster register was not updated by the bank, inspection could not be carried out. The bank was, therefore, instructed to update the roster register and to get it

verified from the office of the Divisional Commissioner, Konkan Division. The bank, it has been stated, did not approach the office of the Divisional Commissioner despite several reminders.

5. In view of the affidavit that has been filed on behalf of the Assistant Commissioner (BC Cell) in the office of the Divisional Commissioner, Konkan Division, a consensus has emerged at the hearing of these proceedings on the basis of which all the learned counsel are agreed that this Petition can be disposed of. Having regard to the contents of the said affidavit counsel appearing for the Firs Respondent stated that the First Respondent shall update the roster register as required in accordance with the instructions of the Government and as directed already by the Divisional Commissioner, Konkan Division. It has been stated on behalf of the First Respondent that this exercise shall be carried out within a period of four weeks from today and the updated roster registers shall be produced before the Fourth Respondent at the latest and, in any event at the expiry of the said period of four weeks. The Learned AGP states that thereupon the Divisional Commissioner who is the Fourth Respondent shall upon scrutiny of the roster registers verify whether compliance has been made by the First

Respondent with the Government policies in regard to reservations governing the field. The Divisional Commissioner shall carry out the exercise within a period of three months upon receipt of the roster registers as updated. We also direct that it would be open to the Divisional Commissioner to seek such additional information from the First Respondent for the purpose of satisfying himself as to whether there is due compliance by the First Respondent of the reservation policies of the State Government that govern the affairs of co-operative banks in the State. It has been agreed that it would be open to the Petitioners to bring to the notice of the Fourth Respondent, by means of a representation to be submitted within a period of two weeks from today, such issues or submissions which would warrant the attention of the Fourth Respondent. Since in view of the consensus that has emerged in these proceedings, the Petition has been disposed of with the aforesaid directions, we clarify that upon the view that may be formed by the

Fourth Respondent and such directions as may be issued thereupon, it would be open to the parties to take steps to avail of the remedies that are available in law. The Petition is accordingly

disposed of. There shall be no order as to costs.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD,
J.